



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN  
DIRECTOR

November 3, 1995  
AO-95-38

Edwin J. Shanahan, Managing Director  
Rental Housing Association  
101 Federal Street  
Boston, MA 02110

Re: Providing elected officials with discounted tickets  
to awards dinner

Dear Mr. Shanahan:

This letter is in response to your October 20, 1995 letter requesting an advisory opinion regarding the Rental Housing Association's ("the Association") providing discounted tickets to elected officials wishing to attend the Association's annual awards dinner. Your question, which I paraphrase below, contains two related parts.

Question: (1) May the Association make a gift of a part of the awards dinner ticket price to an elected official **and** (2) may that official's political committee pay for the balance of the ticket price?

Answer: Yes, to both parts of your question.

Facts: You have stated that the Rental Housing Agency ("the Association") presents two major awards each year. One of the awards, the excellence in Public Services Award ("the Award") is presented to a public servant who, in the Association's opinion, has exemplified excellence in public service benefiting the rental housing industry. This year's recipient will be Governor Weld. You anticipate that a number of elected officials will want to attend the dinner at which the award will be presented.

The price of the tickets for the dinner will be \$125. You have received a written opinion from Mary Schwind, Director of Public Records, advising that an elected official may be invited to the event as a guest of the Association. Attorney David Hanafin of the State Ethics Commission, however, has advised you that the Association may not give invitations to elected officials if the invitations have a retail value in excess of \$50. You state that Hanafin has also advised that the Association may provide elected officials a \$50 discount or gift. The elected official would pay the difference between the ticket price (\$125.00) and the allowable gift (\$50) or \$75.

For purposes of this opinion, I assume that all elected officials invited to the event would be offered the same discount or gift.

Discussion: Your letter raises two issues under the campaign finance law, M.G.L. c. 55. The first issue is whether the \$50 "gift" constitutes a contribution to a candidate. The second issue is whether the \$75 payment for the balance of the ticket price is a permissible campaign expenditure. I will address each issue separately.

(1) Contribution. The Association is a 501(c)(6) trade association. Since member dues are often paid by the member's corporate employers, the Association dues include corporate monies. Therefore, the Association may not make a contribution to a candidate or that candidate's political committee. See M.G.L. c. 55, s. 8 which prohibits corporate contributions to candidates. See also Op. Atty. Gen. dated November 6, 1980.

M.G.L. c. 55, s. 1 defines contribution to include any contribution of money or "anything of value" to a candidate or political committee for the "purpose of influencing [that candidate's] nomination or election." The definition specifically includes a discount or gift. The \$50 price reduction may be characterized as either a "gift" or a "discount." Not all gifts or discounts, however, to candidates are contributions. See Weld for Governor v. Director of OCPF, 407 Mass. 761 (1990). In Weld, the court stated that a transfer between candidate committees is a "contribution" only if it is made for the purpose of influencing the nomination or election of the recipient candidate.<sup>1</sup>

Whether a gift or discount is a contribution depends, in most cases, upon the purpose underlying the gift or discount.<sup>2</sup> For example, if a family member or close personal friend gives a candidate a gift, e.g. theater tickets, on the candidate's birthday, such a gift would not be deemed a contribution because it was not made "for the purpose of influencing the nomination or election" of the candidate. However, if a political supporter gives a candidate the same theater tickets

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<sup>1</sup> Although the holding of the Weld case was limited to candidates for governor and lieutenant governor running as a team, this office has concluded that the analysis applied in that case is applicable to other situations. See AO-94-27 (state representative candidate may conduct a joint fund raising event), AO-94-18 (unsolicited, anonymous gift was not a contribution) and AO-92-15 (constitutional candidates may jointly sponsor reception event at national party convention).

<sup>2</sup> Although not applicable to the facts presented by your question, the most important exception to this general rule is the so-called testimonial provision of the campaign finance law. This provision provides that certain receipts or disbursements are contributions or expenditures "regardless of the purpose of [the] activity." See M.G.L. c. 55, s. 1, paragraph 2.

to be sold at a fundraising auction sponsored by the candidate, the gift, in that instance, would be a contribution.

You have stated that the purpose of the Association's \$50 gift or discount to elected officials would not be to influence their nomination or election. Rather, the gift's purpose would be to promote the Association by helping to make the Association's Award event a success. Based upon the facts presented in your letter, the reduced ticket price does not appear to be a contribution to a candidate. Therefore, the Association may provide the gift or discount without violating the campaign finance law.

(2) Expenditure. M.G.L. c. 55, s. 6 provides, in part, that political committees may make expenditures "for the enhancement of the political future of the candidate . . . for which the committee was organized so long as such expenditure is not primarily for the candidate's or any other person's personal use . . . ." <sup>3</sup>

The campaign finance regulations do not specifically authorize expenditures for such an Awards ceremony. However, the regulations do authorize similar or related expenditures. For example, the regulations permit expenditures for membership in "organizations and associations, provided that the candidate would not be participating in the particular organization or association but for his interest in it enhancing his political stature." See 970 CMR 2.06(3)(c). Similarly, the regulations permit expenditures for "reasonable travel and related expenses" in connection with meetings where the subject matter concerns "substantive issues which are directly related to the campaign of the candidate" and in connection with functions or activities where the candidate's participation is important "provided the primary interest in participating in the event is for the enhancement of the political future of the candidate." See 970 CMR 2.05(2)(1), 970 CMR 2.06(3) and 970 CMR 2.06(3)(d).

The regulations also provide that expenditures which are similar to those expenditures specifically authorized by the regulations and not otherwise prohibited by law or regulations "shall be permitted by political committees." 970 CMR 2.05(2) and 2.06(3). See also AO-95-21 (expenditures for breakfast for supporters of deceased candidate were similar to other permitted expenditures and not inconsistent with the campaign finance law).

Therefore, an elected official's political committee may, consistent with the campaign finance law, make an expenditure to pay for a portion of the ticket price provided the primary purpose of the expenditure is to enhance the official's political future.

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<sup>3</sup> Although the campaign finance law and regulations establish a different standard for statewide candidates, the office's conclusion and analysis applies to officials elected to any office. See M.G.L. c. 55, s. 6 and 970 CMR 2.05.

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This opinion has been rendered solely on the basis of representations made in your letter and conversations with this office's staff and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is fluid and extends to the right.

Michael J. Sullivan  
Director

MJS/cp

cc: David Hanafin, State Ethics Commission  
Mary Schwind, Secretary of State's Public Records Division